



Task Force on Trial Court Employees

Meeting Minutes

January 26- 28, 1999

Embassy Suites, San Rafael, California

TASK FORCE MEMBERS:

PRESENT:

Hon. James A. Ardaiz, Chair
Ms. Pamela Aguilar
Marshal Barbara J. Bare
Hon. Aviva K. Bobb
Mr. Gary Cramer
Hon. Charles D. Field
Ms. Karleen A. George
Ms. Diane Givens
Mr. Ronald G. Overholt
Ms. Christine E. Patton
Mr. Steve Perez
Mr. John Sansone
Mr. Larry Spikes
Mr. Robert Straight

ABSENT:

Ms. Mary Louise Lee
Sheriff Charles Plummer
(Represented by Rich Lucia)
Mr. Mike Vargas
(Represented by Joe Broderick)
Mr. Robert D. Walton
(Represented by David Christianson)

PRESENTERS:

Lyn Hinegardner, Attorney, Administrative Office of the Courts, Council and Legal Services Division
Pat Largent, Manager, San Francisco Area Office, Field Services Division, California Public Employees' Retirement System
Drew James, Actuary, William M. Mercer, Inc.

OTHER STAFF:

Mr. Peter Kutras, Deputy County Executive, County of Santa Clara

ADMINISTRATIVE OFFICE OF THE COURTS STAFF:

Ms. Judith A. Myers, Director, Human Resources Bureau
Ms. Deborah Brown, Attorney, Council and Legal Services Division
Ms. Tina Burkhart, Court Services Analyst, Trial Court Services Division
Ms. Noema Olivas, Secretary, Human Resources Bureau
Ms. Hazel Ann Reimche, Human Resources Analyst, Human Resources Bureau
Ms. Sharon Smith, Staff Analyst, Human Resources Bureau

FACILITATOR:

Ms. Liz Schiff, Organizational Development Specialist, Human Resources Bureau, Administrative Office of the Courts

Tuesday, January 26, 1999

I. OPENING REMARKS

Justice James A. Ardaiz, chair, called the meeting to order at 10:55 a.m. in San Rafael and welcomed everyone to the eighth task force meeting.

II. PUBLIC COMMENT PERIOD

Justice Ardaiz introduced the following guests during the public comment period:

- Ms. Olivia Lin, Service Employees International Union 715 (SEIU) work site organizer, San Mateo County/Santa Clara County, commented on the importance of the employment protection system to court workers and expressed concern that employees be treated fairly.
- Lucille Casey, San Mateo County Court Retirees, expressed her view that job security and benefits produce professional workers.

III. REVIEW: DECEMBER TASK FORCE MEETING AND ANNOUNCEMENTS

Justice Ardaiz summarized the actions and topics of the December 7 and 8, 1998, meeting, which included, in part: (1) education regarding the meet-and-confer process in the trial courts; (2) discussion of meet-and-confer issues and agreement to basic principles; (3) agreement to utilize the State Mediation and Conciliation Service to conduct the advisory vote; and (4) discussion of the revised employment protection model.

Ms. Liz Schiff reviewed the agenda of the meeting and ground rules. Ms. Schiff identified the following objectives for the December meeting:

- Provide an opportunity for communication through a public comment period;
- Provide educational information and identify issues related to employer-provided retirement benefits;
- Discuss meet-and-confer model and outstanding issues and attempt to reach consensus;
- Discuss a conflict of interest code;
- Review, discuss, and consider members' input on the revised model for employment protection system and attempt to reach consensus;
- Review task force accomplishments to date and project timeline;
- Discuss advisory vote and begin to develop plan; and
- Outline interim report content, communication, and education strategies.

Justice Ardaiz asked if there were any additions or corrections to the December meeting minutes. Mr. John Sansone suggested that the word "agreement" in the first sentence on page 2, section III, be changed to "discussion." Mr. Sansone's suggestion was incorporated, and Marshal Barbara J. Bare moved that the December meeting minutes be accepted as revised. Judge Aviva

K. Bobb seconded the motion. No other additions or corrections were made to the December minutes, which were adopted as amended.

IV. STAFF PROPOSAL: WORKING EMPLOYMENT PROTECTION SYSTEM MODEL F AND SUMMARY OF TASK FORCE COMMENTS

Ms. Deborah Brown reviewed Working Employment Protection System Model E and the comments received regarding this model from the task force. Ms. Brown also reviewed Working Employment Protection System Model F, and summarized the modifications, which were made to Working Employment Protection System Model E to address concerns raised by the task force. Ms. Brown provided information, in response to a task force request, about whistle-blowing and retaliation provisions as they apply to court employees.

V. DISCUSSION: WORKING EMPLOYMENT PROTECTION SYSTEM MODEL F

Ms. Schiff facilitated a full-group discussion about the proposed Working Employment Protection System Model F. Issues of concern were discussed and modifications were made to the model by the task force. The task force reached agreement on the modifications and decided to revisit the unresolved issues during the second day of the meeting.

VI. CONFLICT OF INTEREST CODE

Ms. Lyn Hinegardner delivered a presentation about the Political Reform Act and conflict of interest codes. Ms. Hinegardner described the process of adopting a conflict of interest code and answered questions about completing the necessary form. The task force approved the draft conflict of interest code, which will be presented to the Judicial Council for adoption.

VII. STAFF PROPOSAL: MEET-AND-CONFER MODEL

Justice Ardaiz presented the staff's proposed draft meet-and-confer model. This model was designed as a starting point to facilitate a task force discussion about these issues. The model was discussed and modified by the task force. The task force adopted the model as modified, with the exception that bargaining unit composition and the enforcement of rules 2201–2210 of the California Rules of Court would be discussed further on the second day of the meeting. Ms. Diane Givens moved the meet-and-confer model be accepted as modified, seconded by Ms. Karleen A. George, and agreement was reached to adopt the meet-and-confer model.

VIII. CLOSING REMARKS

Justice Ardaiz adjourned the meeting at 4:37 p.m.

Wednesday, January 27, 1999

I. OPENING REMARKS AND REVIEW OF AGENDA AND OBJECTIVES

Justice Ardaiz called the meeting to order at 8:32 a.m.

II. PUBLIC COMMENT PERIOD

Justice Ardaiz introduced one guest during the public comment period:

- Mr. Alvin Gabler, Service Employees International Union (SEIU), thanked the task force for their hard work and the opportunity to watch the task force's meeting.

III. REVISIT: WORKING EMPLOYMENT PROTECTION SYSTEM MODEL F

Justice Ardaiz reviewed agreements and modifications discussed the previous day regarding Working Employment Protection System Model F. A proposal was made to accept the model, with comments regarding due process to be submitted by the task force and further discussed at the February meeting. Staff stated that comments regarding this model are to be submitted by February 16, 1999.

IV. REVISIT: DRAFT MEET-AND-CONFER MODEL

Justice Ardaiz reviewed the meet-and-confer issues discussed the previous day. He then focused on the two outstanding issues of bargaining unit composition and the enforcement of rules 2201–2210 of the California Rules of Court.

Ms. Brown presented an overview and interpretation of the procedure for petitioning for relief for violation of court employee labor relations rules under Government Code section 68654. She stated that parties may petition the Court of Appeal for relief through a writ of mandate under Code of Civil Procedure section 1085. Although procedures vary from one Court of Appeal district to another, generally upon receiving a petition for a writ of mandate, the appellate court may proceed in one of four ways, which include: summarily deny the petition, issue an alternative writ, issue an order to show cause, or issue a peremptory writ. A general task force discussion took place about the enforcement of rules 2201–2210 of the California Rules of Court. Agreement was reached to revisit the issues relating to rule enforcement at the next task force meeting after further information about particular court and county procedures for addressing violations of the rules have been obtained and reviewed.

Ms. Brown provided information about the issue of whether court and county employees may remain in the same bargaining unit. She briefly reviewed relevant provisions of the Rules, and the Meyers-Millias-Brown Act, and the National Labor Relations Act precedent, and presented her conclusion that she agreed with the comments raised at the last meeting that regardless of

what employment status court employees may have (state, county, court or other), whether court and county employees may remain in the same bargaining unit ultimately is a legal determination that may involve complicated questions of law, which the task force need not get involved in at this point.

After a brief discussion by task force members, it appeared agreement was reached that no further task force action was required regarding this issue.

V. TASK FORCE ACCOMPLISHMENTS TO DATE AND TIMELINE

Ms. Judith A. Myers summarized the accomplishments made to date by the task force, which include:

- Agreement to governance guidelines and policies;
- Educational presentations on a variety of personnel structure components;
- Agreement on the task force's survey components and the survey definition of court employee;
- Agreement on the scope of issues for the advisory vote and the general process of conducting the vote;
- Identification of personnel structure issues for status, cost, classification, compensation, employment protection, and collective bargaining;
- Agreement on basic assumptions on classification, compensation, and some elements of meet and confer;
- Agreement on working models of classification, salary, employment protection (in draft), and on definitions of "county," "court," and "state";
- Distribution on the marshal survey; and
- Pre-pilot testing of the trial court employee survey.

Ms. Myers reviewed the remaining tasks the task force must accomplish before the final report can be written and the necessary timeline for completion of the remaining tasks. The remaining tasks of the task force include:

- Identify and create working models for retirement, insurance-related benefits, and other employer-provided benefits;
- Finalize employee protection and meet-and-confer models;
- Complete the pilot and conduct the trial court employee survey;
- Develop transition and implementation plans;
- Fully define the employment status options of state, county, court, and other;
- Implement the advisory vote and analyze the results;
- Identify content areas of the interim report and write report;
- Develop final recommendations; and
- Complete the final report.

VI. ADVISORY VOTE AND PUBLIC ENTITY POLL PROPOSAL

Ms. Myers presented the staff's proposal for the advisory vote. She presented the staff's objectives in creating the proposal as:

- "The task force, in recommending options for employee status, shall consider the complexity of the interests of the employees and various governmental entities. Their recommendations shall, to the greatest extent possible, recognize the need for achieving the concurrence of the affected parties." (Gov. Code, 77603(g).)
- The Trial Court Funding Act of 1997 requires agreement between the county and court for county employment and agreement between the state and court for state employment; the vote must obtain information about second and third preferences.
- Gathering information about employee preferences.
- Acquiring as much information as possible to inform the task force's final recommendation.
- Educating employees about outcomes and alternatives.

Ms. Myers presented the rationale (why, who, what, when, how) for the proposal and timeline given the objectives and statutory guidance. The proposal included a public entity poll of counties and courts, which would be taken in addition to the employee vote to obtain information about their concurrence for employment status options.

VII. DISCUSSION: ADVISORY VOTE AND PUBLIC ENTITY POLL PROPOSAL

Ms. Schiff facilitated a full-group discussion of the advisory vote proposal. Areas of agreement by the task force members regarding the advisory vote and public entity poll included the following:

- The advisory vote should be taken by the task force;
- The employee vote will come after the interim report but before the final report;
- Employee status definitions must be defined in the interim report;
- A public entity poll should be conducted, in addition to the employee advisory vote;
- The State Mediation and Conciliation Service would be used for the public entity poll and the employee advisory vote;
- Each process would be structured to support an informed vote/poll to gather the most information possible;
- Individual counties will be polled;
- The public entity poll will take place at the same time as the employee advisory vote; and
- The employment status recommendation will not be included in the interim report or the advisory vote.

VIII. INTERIM REPORT

Ms. Myers reviewed the statutory mandate for the task force's interim report in Government Code section 77604(c). She reminded the members that the legislated due date for the report is January 30, 1999, and an extension has been requested to submit the report to the required parties by May 7, 1999.

The task force members formed two groups to review and discuss the issues relating to the content, education, and communication for the interim report. After a report from each small group, Ms. Schiff facilitated a full-group discussion. The task force agreed that the interim report will:

- Include definitions of employment status options but not a single status recommendation;
- Be a partial draft of the final report;
- Outline the issues listed in section 77604(c);
- Include working task force models; and
- Not include the results of the survey and the advisory because these will not be available.

IX. FOLLOW-UP: SURVEY DEFINITION OF "COURT EMPLOYEE"

Ms. Myers presented a revised survey definition of "court employee" to clarify the intent to exclude elected officials from the definition. The revised definition was approved and the task force agreed to post it on the Web site (<http://www2.courtinfo.ca.gov/tcemployees>).

X. CLOSING REMARKS

Justice Ardaiz adjourned the meeting at 4 p.m.

Thursday, January 28, 1999

I. OPENING REMARKS AND REVIEW OF AGENDA AND OBJECTIVES

Justice Ardaiz called meeting to order at 8:10 a.m. Ms. Schiff reminded the task force that comments regarding Working Employment Protection System Model G and Meet-and-Confer Model B must be submitted to staff by February 16. She also stated that comments on the pilot trial court employee survey must be submitted by February 19 in order to be incorporated into the final survey document, which is anticipated to be sent to all trial courts by March 5.

II. EDUCATION: RETIREMENT

Mr. Pat Largent, Manager, Field Services Division, San Francisco Area Office of the California Public Employees' Retirement System (CalPERS), presented an overview of retirement benefits under the California Public Employees' Retirement System, which included information about:

- Differences between CalPERS and 1937 Act counties;
- Optional PERS benefit provisions;
- Retirement definitions of "reciprocity," "final compensation," "service credits," and "benefit factor"; and
- Retirement benefit formulas.

A general discussion took place regarding retirement issues, and Mr. Largent and Mr. David Christianson from PERS answered task force questions.

III. EDUCATION: GENERAL OVERVIEW OF TRIAL COURT RETIREMENT IN CALIFORNIA AND 1937 ACT COUNTIES AND COUNTY RETIREMENT

Mr. Drew James, Actuary, William M. Mercer, Inc., presented an overview on trial court retirement systems, including 1937 Act county and other county retirement systems. The presentation included information about:

- The number and types of retirement systems and the 121 separate levels of retirement benefits currently covering trial court employees;
- Noncore retirement plans, such as deferred compensation (Int. Rev. Code §457) plans, 401(k) plans, and special purpose plans;
- Benefit issues such as vested rights and collective bargaining agreements;
- Structure issues including withdrawal obligations, governance requirements, defined benefit plans vs. defined contribution plans, and PERS contracting options; and
- Funding issues such as member contributions, employer contributions, and/or pension obligation bonds.

IV. DISCUSSION AND REPORT BACK: IDENTIFICATION OF RETIREMENT ISSUES

Ms. Myers reviewed the statutory charge of the task force relating to retirement by examining the applicable sections of the Lockyer-Isenberg Trial Court Funding Act of 1997 and presented proposed preliminary retirement objectives for task force discussion. Ms. Schiff facilitated the full-group discussion. The task force discussed working objectives and assumptions for retirement and agreed to submit questions to CalPERS and Mercer regarding issues of concern and uncertainty.

V. CLOSING REMARKS

Justice Ardaiz adjourned the meeting at 2:10 p.m.